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**DEC 23 1996**

**OFFICE OF PETITIONS  
A/C PATENTS**

In re Application of  
Patal et al.  
Application No. 08/266,753  
Filed: June 28, 1994  
Attorney Docket No. A6457

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: DECISION GRANTING PETITION  
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This is a decision on the amendment filed April 5, 1996, which will be considered as a petition requesting that the above-identified application be accorded a filing date of June 28, 1994.

On June 28, 1994, the application was deposited.

On April 8, 1996, the application was withdrawn from issue for resolution of the filing date issue noted by petitioner.

On April 5, 1996, the present petition, including an authorization to charge counsel's deposit account for the requisite petition fee and a amendment under 37 CFR 1.312 were filed. Petitioners argue that Figure 7 in the application as allowed is incorrect and does not correspond to the text of the specification. Petitioners state that the new Figure 7 is virtually identical to Figure 14 of copending application 08/243,480 which was incorporated by reference and that the new Figure 7 corresponds to the detailed description of the content of Figure 7 on pages 34 and 35 of the specification. The amendment substitutes a new Figure 7 for the original Figure 7. Petitioners request that the application be accorded a filing date of June 28, 1994.

MPEP 608.01(f) states, in part, that an application is considered incomplete if it omits drawings which are described in the specification.

Upon review of the record, it reveals that the application, as filed, did contain a drawing of the described Figure 7. Thus, the application, as filed, was prima facie incomplete.

However, pages 4 and 5 of the application, as filed, incorporated by reference other applications, application No. 08/237,896 and 08/243,480. Further, by counsel's statements and the evidence presented on April 5, 1996, Figure 7 submitted April 5, 1996, in this application should have corresponded to the drawing of

Figure 14 filed in the '896 application. A further review of the record, shows that new Figure 7 (element 96) does not clearly correspond to the drawing of Figure 14 (element 126) in the '896 application. However, Figure 6 in the '480 application appears to correspond to new Figure 7. Therefore, the later submission of new Figure 7 does not raise the issue of new matter.

Since it is now clear that a drawing of new Figure 7 described in this application was present in the Office on June 28, 1994, albeit in a different application file, on petition, the application may be accorded a filing date of June 28, 1994.

The petition is granted. The one (1) sheet of drawings containing new Figure 7 submitted April 5, 1996, will be used for examination purposes.

In view of the above, the petition is granted. The current \$130.00 petition fee has been charged to counsel's deposit account.

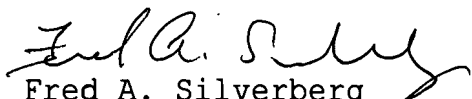
The drawing amendment filed April 5, 1996, has been approved and will be entered in due course.

The application is being forwarded to Application Division for further processing with a filing date of June 28, 1994, using the application papers filed June 28, 1994, and the drawing of Figure 7 filed April 5, 1996.

Thereafter, the application will be forwarded to Examining Group 2600 with a filing date of June 28, 1994, for entry of the amendment under 37 CFR 1.312, as indicated above.

Thereafter, the application will be forwarded to Production Control Branch for further processing as an allowed application.

Any inquiries related to this decision should be directed to Jill Heitbrink at (703) 308-6912, or if not available, to the undersigned at (703) 305-9282.



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